

# **EXHIBIT “A”**

STATE OF TEXAS

§

COUNTY OF MONTGOMERY

§

§

**AFFIDAVIT**

After being duly sworn, counsel deposed and said:

“My name is Gerald E. Bourque and am licensed to practice law in Texas under bar number 02716500. In 1989, I became Board Certified in Criminal Law by the Texas Board of Legal Specialization. That certification is still current. I am also a death penalty qualified criminal defense lawyer in the 2<sup>nd</sup> and 11<sup>th</sup> Judicial Administrative Districts. I have been to trial in 15 death penalty cases: 13 state cases and 2 federal cases. I have lost count of the number of Capital Murders I have been assigned.

On May 14, 2020, I sent a letter to the Assistant United States Attorney, Paul David Stern, asking for copies of statements given by Michael and Rebecca Kelley. I also asked Mr. Stern to inform me whether the Kelleys were targets now or whether they would ever become targets of a criminal investigation.

Neither Mr. Stern, Mr. Handler, nor anyone else from the United States Department of Justice ever communicated with me or responded to my letter anytime over the next 6 weeks.

On June 23, 2020, the deposition of Mr. Kelley began. I introduced my letter into evidence and asked about the criminal exposure. Mr. Handler and Mr. Stern stated they could not deny that Mr. and Mrs. Kelley could be targets of a criminal investigation. I twice asked what efforts they made to get answers to my questions. Neither would answer whereupon I stated based on their silence I assumed they did not do anything to get answers to the concerns stated in the letter and that I could only conclude the deposition was a sinister effort to gain information toward a criminal indictment. They did not argue against that conclusion.

The government asked about 4 or 5 questions and then began to demand things from my client and me. I told them repeatedly to ask their next question. The deponent did not assert a blanket 5<sup>th</sup> Amendment. Any answers including the 5<sup>th</sup> Amendment were in response to specific questions. Eventually the government took a 30-minute break and then started back along the same path. Suddenly the government simply quit the deposition. They cancelled Rebecca Kelley’s scheduled deposition. Mrs. Rebecca Kelley was present on June 23, 2020 in compliance

to the notice and subpoena. The government never asked her one single question. In essence, I believe the government intentionally ignored my letter and did not properly prepare for this deposition. The government received my letter on May 14, 2020 via email and shortly thereafter by regular mail. Failing to address my letter for six weeks just exemplifies how disinterested the government was in actually going forward with the deposition. The power to grant immunity has been reserved for the executive branch. The Department of Justice understands what it needs to do, but rather than do that they seek to intimidate and frighten two parents."

WITNESS MY HAND this 7 day of July, 2020.

Gerald E. Bourque  
Gerald E. Bourque

STATE OF TEXAS

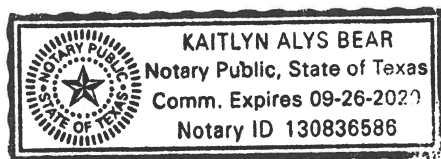
§  
§  
§

COUNTY OF MONTGOMERY

### ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, on this day personally appeared Gerald E. Bourque, known to me to be the person whose name is subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7 day of July, 2020.



[Signature]  
Notary Public, In and for  
The State of TEXAS

# **EXHIBIT “B”**

# GERALD E. BOURQUE

ATTORNEY AT LAW

24 WATERWAY AVE., SUITE 660, THE WOODLANDS, TEXAS 77380

Office (713) 862-7766

Facsimile (832) 813-0321

gerald@geraldbourque.com

www.geraldbourque.com

May 14, 2020

Paul David Stern  
U.S. Attorney's Office (W.D. Tex)  
601 W. Loop 410, Suite 600  
San Antonio, Texas 78216

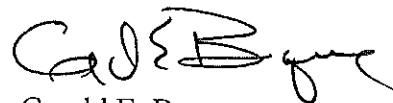
RE: Cause No. 5:18-cv-00555-XR; Holcombe, et al. v. United States of America;  
In the United States District Court for the Western District of Texas – San  
Antonio Division

Dear Mr. Stern:

This office is recently hired to personally represent Michael Kelley and Rebecca Kelley during the depositions to be scheduled in the above styled and numbered civil cause. Please forward for review a copy each and every statement given by Michael Kelley and Rebecca Kelley to the Federal Bureau of Investigation, A.T.F., Texas Rangers, United States Air Force, U. S. O.I.G., or any other law enforcement agency in relation to the subject matter which makes the basis of the above referenced litigation.

The incident which makes the basis of this civil litigation was a mass shooting. Had Devin Kelley survived, the United States would have indicted him for intentionally causing the death of several people and the D.O.J. would likely have authorized the pursuit of the death penalty. Any acquaintances of the perpetrator would be investigated as targets for indictment, as well. Therefore, please provide a letter stating that neither Michael Kelley nor Rebecca Kelley are targets of a criminal investigation at this time and that answers they give in response to questions during the deposition will not lead to either of them becoming targets of a criminal investigation with the United States Department of Justice. In other words, provide a letter stating they are not now targets of a criminal investigation and they will never be targets of a criminal investigation for anything related to the Sutherland Springs incident.

Sincerely,



Gerald E. Bourque

Cc: Jamal Alsaffar  
Whitehurst, Harkness, Brees, Cheng,  
Alsaffar, Higginbotham & Jacob PLLC  
7500 Rialto Blvd., Bldg 2, Suite 250  
Austin, Texas 78735

J. Dean Jackson  
Curney, Farmer, House, Osuna &  
Jackson, P.C.  
411 Heimer Road  
San Antonio, Texas 78232

# **EXHIBIT “C”**

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

JOE HOLCOMBE, ET AL.,	§	
	§	
PLAINTIFF,	§	CIVIL ACTION NO.
	§	5:18-CV-00555-XR
V.	§	
	§	
UNITED STATES OF AMERICA,	§	
	§	
DEFENDANT.	§	

REMOTE DEPOSITION OF MICHAEL SHAWN KELLEY  
JUNE 23, 2020

REMOTE DEPOSITION OF MICHAEL SHAWN KELLEY,  
produced as a witness at the instance of the  
Defendant and duly sworn, was taken in the above  
styled and numbered cause on Tuesday, June 23, 2020,  
from 8:17 a.m. to 9:23 a.m., before TAMARA CHAPMAN,  
CSR, RPR-CRR in and for the State of Texas, reported  
remotely by computerized stenotype machine in  
Austin, Texas pursuant to the Federal Rules of Civil  
Procedure and any provisions stated on the record  
herein.

Job No. J5731874

A P P E A R A N C E S

FOR THE PLAINTIFFS:

Joseph M. Schreiber  
SCHREIBER KNOCKAERT, PLLC  
701 North Post Oak Road, Suite 325  
Houston, Texas 77024  
281-949-8904  
joe@lawdoneright.com

-and-

Jamal K. Alsaffar  
Tom Jacob  
WHITEHURST, HARKNESS, BREES, CHENG, ALSAFFAR,  
HIGGINBOTHAM AND JACOB, PLLC  
7500 Rialto Boulevard  
Building Two, Suite 250  
Austin, Texas 78735  
855-419-2050

-and-

Jason Charles Webster  
THE WEBSTER LAW FIRM  
6200 Savoy Drive, Suite 150  
Houston, Texas 77036  
713-396-5197

-and-

Brett T. Reynolds  
BRETT REYNOLDS & ASSOCIATES, PC  
1250 NE Loop 410, Suite 420  
San Antonio, Texas 78209  
210-805-9799  
Btreynolds@btrlaw.com



MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

3

## A P P E A R A N C E S (CONTINUED):

## FOR THE DEFENDANT:

Stephen E. Handler  
Austin Furman  
U.S. DEPARTMENT OF JUSTICE  
Three Constitution Square  
175 N Street, NE, 11th Floor, Room 1809  
Washington, D.C. 20002  
202-616-4272  
austin.l.furman@usdoj.gov

-and-

Paul Stern  
U.S. ATTORNEY'S OFFICE  
601 W. Loop 410, Suite 600  
San Antonio, Texas 78216  
210-384-7100

## FOR MICHAEL AND REBECCA KELLEY:

Dean Jackson  
CURNY, FARMER, HOUSE, OSUNA & JACKSON, P.C.  
411 Heimer Road  
Washington, D.C. 20002  
210-377-1990  
djackson@cfholaw.com

-and-

Gerald E. Bourque  
LAW OFFICE OF GERALD E. BOURQUE  
24 Waterway Avenue, Suite 660  
The Woodlands, Texas 77380  
713-862-7766  
gerald@geraldebouque.com

## ALSO PRESENT:

Daniel P. Chung  
GIBSON DUNN  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Dchung@gibsondunn.com

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

4

## I N D E X

## PAGE

APPEARANCES.....	2
MICHAEL SHAWN KELLEY	
EXAMINATION	
By Mr. Handler.....	7
CORRECTION PAGE.....	41
SIGNATURE PAGE.....	42
REPORTER'S CERTIFICATION.....	43

## E X H I B I T S

## PAGE LINE

Exhibit 1, 05/14/2020 letter from Gerald E. Bourque to Paul David Stern, RE: Cause No. 5:18-cv-00555-XR (No Bates - 1 page)	7	3
Exhibit 2, Subpoena to produce documents, information, or objects or to permit inspection of premises in a civil action (No Bates - 3 pages)	7	3
Exhibit 3, Attachment to subpoena duces tecum to Michael Kelley (No Bates - 9 pages)	7	3
Exhibit 4, Photograph of Devin Kelley (TXRANGERS00010965)	7	3
Exhibit 5, Photograph of Devin Kelley (TXRANGERS00010967)	7	3
Exhibit 6, Photograph of Devin Kelley (TXRANGERS00010969)	7	3
Exhibit 7, Photograph of Devin Kelley (TXRANGERS00046864)	7	3

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

5

1 E X H I B I T S (Continued)

2 Exhibit 8, 7 3  
Photograph

3 (TXRANGERS00047011)

4 Exhibit 9, 7 3

5 Texas Department of Public Safety,  
Texas Rangers, Supplemental report by  
Billy Mims

6 (TXRANGERS00053617 -

TXRANGERS00053621)

7 Exhibit 10, 7 3

8 Video clip

9 (TXRANGERS00053246)

10 Exhibit 11, 7 3

11 Texas Department of Public Safety,

12 Texas Rangers, Supplemental report by  
Brent Barina

13 (TXRANGERS00053663 -

14 TXRANGERS00053666)

15 Exhibit 12, 7 3

16 Audio clip

17 (TXRANGERS00016657)

18 Exhibit 13, 7 3

19 Texas Department of Public Safety,

20 Texas Rangers, Supplemental report by

21 Joseph Evans

22 (TXRANGERS00049390 -

23 TXRANGERS00049391)

24

25

1 THE STENOGRAPHER: Pursuant to the  
2 First Emergency Order Regarding the COVID-19  
3 State of Disaster, Paragraphs 2.b. and 2.c., this  
4 deposition of Michael Kelley is being conducted  
5 remotely via Zoom. Today's date is June 23, 2020  
6 and the time is 8:17 a.m.

7 My name is Tamara Chapman, Texas  
8 CSR #7248. I am administering the oath and  
9 reporting the deposition remotely by stenographic  
10 means from my residence within the State of  
11 Texas.

12 MR. HANDLER: Steve Handler  
13 representing the United States.

14 MR. SCHREIBER: This is Joseph  
15 Schreiber. I represent the plaintiffs.

16 MR. JACKSON: Dean Jackson. It's  
17 my privilege and honor to represent Michael and  
18 Rebecca Kelley. I'm here along with Gerald  
19 Bourque, who is their personal counsel as well.

20 MR. ALSAFFAR: Jamal Alsaffar,  
21 representing the plaintiffs.

22 MR. STERN: Paul Stern on behalf  
23 of defendant, United States.

24 MR. FURMAN: Austin Furman,  
25 defending the United States.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

7

1 MR. WEBSTER: Jason Webster,  
2 representing plaintiffs.

3 MICHAEL SHAWN KELLEY,  
4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. HANDLER:

7 Q. Good morning, Mr. Kelley. My name is  
8 Steven Handler. I represent the United States.

9 For the record, could you please state  
10 your full name and spell it for the record.

11 A. Michael Shawn Kelley. Michael,  
12 M-I-C-H-A-E-L; Shawn, S-H-A-W-N; Kelley, K-E-L-L-E-Y.

13 Q. Thank you. Well, let the record reflect  
14 that this is the deposition of Michael Kelley taken  
15 pursuant to notice in accordance with the Federal  
16 Rules of Civil Procedure and the local rules of the  
17 Western District of Texas.

18 As I said, I'm representing the United  
19 States. Are you represented by counsel today?

20 A. Yes.

21 Q. And can you name your counsel, please?

22 A. Dean Jackson and Gerald Bourque.

23 Q. Okay. Now, there are other attorneys  
24 attending this deposition and they represent, of  
25 course you heard, the plaintiffs and the United

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

8

1 States.

2 We're here today to discover facts  
3 regarding the allegations that the plaintiffs have  
4 made against the United States, as well as other  
5 related matters. In particular, this lawsuit  
6 pertains to the wrongful death and personal injury  
7 actions brought against the United States.

8 The claims arise out of a mass shooting  
9 perpetrated by former Airman Devin Patrick Kelley at  
10 the First Baptist Church in Sutherland Springs,  
11 Texas, on Sunday, November 5th, 2017.

12 Mr. Kelley, throughout this deposition,  
13 instead of me repeating the full names of everyone,  
14 I'll probably use shorthand references. So the First  
15 Baptist Church of Sutherland Springs, we'll just call  
16 it "the church." The shooting perpetrated by Airman  
17 Devin Patrick Kelley will be called "the church  
18 shooting" or just "the shooting." Whenever I  
19 reference Devin Patrick Kelley, I'll probably just  
20 call him by his first name, Devin. I'll also mention  
21 Danielle Kelley. I'll just call her Danielle.  
22 That's Devin's second wife. Tessa Kelley, Devin's  
23 first wife, we'll just call her Tessa. Michelle  
24 Shields, the mother of Danielle, we'll just call her  
25 Michelle.

1 And to the extent possible I'll try to use  
2 the first names, just to move the deposition along.

3 Are you presently taking any medications  
4 or are you on any medications that would impair your  
5 ability to understand my questions and give  
6 appropriate answers?

7 A. No.

8 Q. Have you ever had your deposition taken  
9 before in a setting like this? Not necessarily on  
10 Zoom, but maybe even in person?

11 A. Yes, once.

12 Q. And when was that?

13 A. Back in the '80s. I don't remember when.

14 Q. Was it a civil case or criminal case?

15 A. Civil.

16 Q. Okay. And were you the plaintiff or the  
17 defendant?

18 A. I was the defendant.

19 Q. Okay. And what did the -- what was the --  
20 the gist of the case?

21 A. We had some carpenter guys over building a  
22 deck and they cut their fingers on their saw.

23 Q. I'm sorry. Could you repeat that?

24 A. I said we had some guys over, carpenters,  
25 building a deck and they cut their fingers with their

1 saw.

2 (Discussion off the written record.)

3 Q. And, Mr. Kelley, other than that one  
4 deposition back in the '80s, have you ever been  
5 deposed, other than that one time?

6 A. No.

7 Q. Okay. So a deposition is just like  
8 testifying in court under oath before a judge. The  
9 court reporter will record all of your questions --  
10 all the questions and all of the answers. I'll be  
11 asking you questions. Other attorneys may be asking  
12 you questions. And some of the attorneys may object,  
13 but you can still respond, unless your attorney  
14 instructs you not to.

15 Because you're sworn under oath, you are  
16 expected to respond to the questions to the best of  
17 your knowledge, but your responses must be truthful.  
18 Your response is subject to the penalty of perjury if  
19 your response is not truthful regarding any material  
20 facts.

21 If at any time I ask you a question and  
22 you do not understand it, please stop me so I can  
23 rephrase it or ask a different question. If you  
24 respond to a question, I will conclude that you  
25 understood it and you were giving an appropriate



1 response.

2 All of your responses must be verbal in  
3 order for the court reporter to record them. You  
4 can't nod your head or shake your head or gesture  
5 with your hands.

6 At the end of deposition, when a  
7 transcript is prepared, you will be given the  
8 opportunity to read it and make corrections. To the  
9 extent, however, you make any substantive  
10 corrections, we may have to take your deposition  
11 again.

12 Before we get started, do you understand  
13 all my instructions?

14 A. Yes.

15 Q. Okay. Do you have any questions?

16 A. No.

17 Q. Okay. Now, you mentioned before that you  
18 were a defendant in a certain -- in the 1980s.

19 Are you presently or had you been a  
20 defendant with respect to the litigation involving  
21 the shooting at the church?

22 MR. BOURQUE: No. Before we go  
23 any further, let me -- there is something I want  
24 to take up, and I want to take up Kelley 1 with  
25 the government at this time. If you'll pop that

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

12

1 up so the government can see.

2 On May the 14th of this year I  
3 sent a letter to the Western District of Texas to  
4 the attention of Paul David Stern. I sent it by  
5 regular mail and I emailed. Copies went to  
6 Mr. Alsaffar and Mr. Jackson. I never got a  
7 return envelope saying that the letter was not  
8 received.

9 I also neither got a response to  
10 that letter from the United States Government or  
11 from Mr. Stern. I also never got so much as a  
12 phone call from Mr. Stern or anyone with the  
13 government involved in this case. I had no  
14 acknowledgement at all that I even existed in  
15 this case, from the government.

16 In my letter I set out what I  
17 needed from the government before this deposition  
18 was to take place. I never received any  
19 statement given by Mr. Kelley. I never received  
20 any statements that were given by Ms. Kelley to  
21 any of the people listed in that letter.

22 I also set out why I'm concerned  
23 about this deposition going forward. This is a  
24 mass homicide. The perpetrator of this event  
25 either committed suicide or was killed by others.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

13

1 The only remaining possible targets are  
2 Mr. Kelley and Ms. Kelley.

3 I asked in my letter, please give  
4 me some reassurance. This is what criminal  
5 defense lawyers who have tried 12 to 14 capital  
6 murder death penalty cases do. They seek from  
7 the government some assurance that says, "you  
8 know, it's been two and a half years. What's the  
9 status of a grand jury impanelling? Are my  
10 clients targets now or are they ever going to be  
11 targets?"

12 I got not one single solitary  
13 response, not even a phone call that says, "It's  
14 out of my hands. I don't make that call." So I  
15 can only assume that there is a sinister reason  
16 for you not contacting me or the government not  
17 making an effort to seek immunity so that these  
18 two people can give truthful answers to truthful  
19 questions.

20 So I have a serious concern about  
21 the government's good-faith intentions in this  
22 deposition. And I want somebody to tell me,  
23 whether it's Mr. Handler or it's Mr. Stern, what  
24 efforts you made to seek immunity or to answer my  
25 questions in response to my May 14th, 2020,

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

14

1 letter.

2 MR. JACKSON: Did you introduce it  
3 already?

4 MR. BOURQUE: And if it hadn't  
5 been introduced for purposes of the deposition,  
6 I'm introducing it now for the purposes of the  
7 deposition.

8 MR. HANDLER: Mr. Bourque, is that  
9 it?

10 MR. BOURQUE: I answer to pretty  
11 much anything. That will work.

12 MR. HANDLER: Okay. I can neither  
13 confirm nor deny the existence of any criminal  
14 investigation.

15 MR. BOURQUE: You know what the  
16 problem is -- whatever --

17 MR. HANDLER: Let me finish. Let  
18 me finish. Excuse me.

19 I said I can neither confirm nor  
20 deny the existence of any criminal investigation.  
21 This is a discovery deposition, the third-party  
22 witness in a civil case. We have issued a  
23 subpoena. He's appearing and we have the right  
24 to take his deposition. I have not --

25 MR. BOURQUE: He has rights also.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

15

1 MR. HANDLER: Well, I understand  
2 that, but are you saying that if we don't give  
3 you the assurances you requested in your letter,  
4 that you're going to instruct your witness not to  
5 respond to any questions in this deposition?

6 MR. BOURQUE: Let me ask you this.  
7 What efforts did you make to comply with anything  
8 I sent on May the 14th, 2020? That's my question  
9 and it deserves an answer.

10 MR. HANDLER: Let me just say,  
11 Mr. Bourque, I am not the witness in this case.  
12 The witness in this case is Mr. Kelley, and he is  
13 the one that I'm posing questions to, and he is  
14 the one that I will ask -- you know, that is the  
15 deponent.

16 I am not here to answer your  
17 questions, and I'm asking you, are you going to  
18 instruct your witness not to answer the questions  
19 and participate as a deponent in this civil  
20 lawsuit because your letter -- the questions in  
21 your letter were not responded to? A simple  
22 question, "yes" or "no"?

23 MR. BOURQUE: I don't give  
24 yes-or-no answers until I get answers to my  
25 questions.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020  
16

1 MR. HANDLER: Well, I'm not giving  
2 you an answer to your question.

3 MR. BOURQUE: Okay. Well, then  
4 I'm not giving you an answer to yours, big boy.

5 MR. JACKSON: Mr. Handler, this is  
6 Gerald's issue with this. You didn't respond to  
7 his letter. He has some serious questions about  
8 your motives behind this deposition. We  
9 understand it's a civil lawsuit.

10 However, by not responding to his  
11 letter, he is assuming that you guys are going to  
12 try to indict Mr. and Ms. Kelley, and you're  
13 going to take this deposition, you're going to  
14 run it over to the other side of the street and  
15 say "here you go, we did your work for you."

16 I mean, it's pretty easy. And  
17 what you're making the Kelleys do right now is  
18 not answer your questions and possibly invoke  
19 their Fifth Amendment right to make it look  
20 terrible on them.

21 MR. HANDLER: I have already made  
22 a statement that we are here in this deposition  
23 to depose Mr. Kelley with regard to the facts and  
24 circumstances of the allegations made by the  
25 plaintiffs in this civil litigation. That is my

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

17

1 only intention in this case. And I did -- I made  
2 that statement.

3 MR. JACKSON: That right there is  
4 saying something without saying anything.

5 MR. HANDLER: I'm sorry?

6 MR. JACKSON: That is saying  
7 nothing. I mean, just using words out loud that  
8 mean nothing.

9 MR. HANDLER: Well, I'm going to  
10 proceed with this deposition. If you're going to  
11 instruct your witness not to answer, you're going  
12 to have to do it question by question.

13 Okay? So let's proceed.

14 MR. SCHREIBER: I'd like to make a  
15 statement on behalf of the plaintiffs in the  
16 civil side of the case.

17 We object to a question-by-question.  
18 Fifth Amendment -- questions by the government  
19 seeking to have the witness invoke the Fifth  
20 Amendment, when for over a month you guys have  
21 had a letter letting you know this was going to  
22 happen. So we object to any sort of spectacle  
23 which might make the witness look bad and might  
24 try and take a side-shot at the plaintiffs.

25 MR. JACKSON: Right. And I will

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

18

1 shut this deposition down if we go question by  
2 question just to intimidate and harass my  
3 clients.

4 MR. STERN: Can I jump in for a  
5 second. This is Paul Stern.

6 Mr. Schreiber, I realize that  
7 Mr. Handler is taking the deposition.  
8 Nonetheless, the letter was intended and was  
9 addressed to me, sir, and to the extent that this  
10 issue has been raised and addressed to lead  
11 counsel, I would like the opportunity to respond.

12 MR. SCHREIBER: Okay. Go ahead.

13 MR. STERN: Thank you.

14 As you're well aware, we sought  
15 the deposition of Michael and Rebecca Kelley  
16 during a court hearing on May 14th, 2019. Judge  
17 Rodriguez authorized those depositions to be  
18 taken. Prior to seeking these depositions, we  
19 sent a request for a subpoena to produce  
20 documents. That subpoena was responded to with a  
21 motion for a protective order. A motion for  
22 protective order addressed various issues without  
23 raising the -- including the issue of potential  
24 assertions of Fifth Amendment.

25 We then had a conversation with



1 Dean Jackson to try to obviate the need to  
2 litigate the matter any further. After we  
3 responded to that motion, at that time  
4 Mr. Jackson agreed to withdraw the motion for  
5 protective order and agreed to schedule this  
6 deposition.

7 At the -- subsequent to that  
8 conversation, we then had conversations about the  
9 logistics of scheduling this deposition, and then  
10 subpoenaed Michael and Rebecca Kelley to appear  
11 for their deposition per the court order. At no  
12 time was the issue raised about that letter and  
13 the reassertion of any Fifth Amendment concerns.

14 We fully recognize that this is a  
15 civil litigation where we've identified Devin  
16 Patrick Kelley as a potential responsible third  
17 party. The Court granted that authorization, as  
18 well granted these depositions to be taken. Note  
19 we are -- this deposition is being taken without  
20 any outstanding protective order in place; and to  
21 the extent that you're now insisting that we  
22 respond to the letter, we've had conversations  
23 with Dean Jackson but in no way are obligated to  
24 reveal how we determined whether or not and to  
25 what extent we should respond to that letter.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020  
20

1                   These depositions are going  
2 forward without a protective order in place.  
3 Questions will be asked, and if the deponent  
4 answers by asserting his Fifth Amendment right  
5 against self-incrimination, so be it, but we have  
6 a right to take this deposition and will continue  
7 to do so.

8                   MR. BOURQUE: All right. I  
9 appreciate that, Mr. Stern.

10                   One more response from Gerald  
11 Bourque. Since you volunteered to jump in to  
12 this, I'd like to hear from you. What effort did  
13 you make to determine whether or not Mr. and  
14 Ms. Kelley are now targets of the United States  
15 Government or are not targets of the United  
16 States Government?

17                   MR. STERN: I am not responding to  
18 your questions. I'm responding to your  
19 accusations that we are taking this deposition in  
20 an inappropriate manner. That is not the case.  
21 We scheduled it with counsel with no outstanding  
22 protective order in place and this deposition  
23 will go forward.

24                   MR. BOURQUE: Well, that's  
25 wonderful, Mr. Stern. I so much appreciate

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

21

1 your -- your inclination here. Can you just  
2 answer my question? What efforts did you put in  
3 to this? I take it by your silence, none. You  
4 did nothing. You didn't do anything.  
5 Mr. Handler didn't do anything. No one from the  
6 United States Government so much as made an  
7 effort to walk across the hall and talk to  
8 United -

9 (Simultaneous speaking.)

10 MR. STERN: Mr. Bourque, we are --

11 MR. BOURQUE: I'm assuming -- if  
12 I'm wrong --

13 MR. STERN: We neither confirming  
14 or denying any investigation. We are not going  
15 to reveal attorney work product regarding this --  
16 this case. If you're going to remove your  
17 witness, do so, but, otherwise, we are going to  
18 continue with this deposition --

19 MR. BOURKE: Get on with it.

20 (Simultaneous speaking.)

21 MR. STERN: -- asking the  
22 questions.

23 Mr. Handler, please proceed.

24 MR. BOURQUE: Why don't you try to  
25 get on with it. Get on with it. Okay? Get on

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

22

1 with it. I got my answers. You did nothing.

2 Q. Mr. Kelley, I apologize for the discourse  
3 here. Attorneys do that in depositions, but we'll  
4 proceed.

5 Now, with regard to this particular  
6 litigation, the -- involving the church shooting,  
7 were you a defendant in a case called Lookingbill?

8 A. On advice of my counsel, I assert my Fifth  
9 Amendment right to remain silent.

10 MR. WEBSTER: And I'm going to object to  
11 the continued line of -- this is Jason Webster. I'm  
12 going to object to the continued line of questioning  
13 if he's going to invoke the Fifth Amendment because  
14 it's not admissible in federal court. So if he's  
15 going to continue to answer every single question,  
16 it's not admissible. So we need to go get a ruling  
17 by the judge and then come back.

18 MR. HANDLER: Mr. Webster, I think  
19 you're incorrect, but we will continue.

20 Q. Mr. Kelley, you've asserted your Fifth  
21 Amendment right to remain silent regarding whether or  
22 not you are a defendant in Lookingbill case. Is that  
23 correct?

24 MR. JACKSON: Objection; asked and  
25 answered --

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020  
23

1 A. By advice of counsel, I assert my Fifth  
2 Amendment right to remain silent.

3 Q. Okay. Are you going to follow that  
4 advice?

5 A. On advice of my counsel, I'm going to  
6 assert my Fifth Amendment right to remain silent.

7 Q. Okay. Was that -- was the Lookingbill  
8 case settled on your behalf?

9 A. On advice of my counsel, I'm going to  
10 assert -- I assert my Fifth Amendment right to remain  
11 silent.

12 Q. And did you pay any money with regard to  
13 that lawsuit?

14 A. On advice of my counsel, I assert my Fifth  
15 Amendment right to remain silent.

16 MR. HANDLER: Counsel, what is the  
17 basis for asserting the Fifth Amendment right  
18 on -- on information that concerns a pending  
19 lawsuit in a state court action?

20 MR. JACKSON: And I'm also going  
21 to object as completely irrelevant, so anything  
22 that's happening in the federal lawsuit against  
23 the United States Government.

24 Mr. Handler, that makes -- the  
25 relevancy of that is -- I can't even comprehend

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

24

1 in the great sea of imagination how that would  
2 have any relevance in the plaintiff's lawsuit  
3 against the United States Government. So I'm  
4 going to object -- I mean, quite frankly, that's  
5 just harassing and it has no relevance whatsoever  
6 to the United States --

7 (Simultaneous speaking.)

8 MR. HANDLER: It is not  
9 harassment. It pertains to monies that are spent  
10 by defendant in a state case that may be offset  
11 in the federal case and has similar allegations.  
12 That's not irrelevant and that's not a basis for  
13 asserting the Fifth Amendment. The Fifth  
14 Amendment has a very particular assertion here.  
15 Are you saying that your client is asserting the  
16 Fifth Amendment based on relevancy? State the  
17 basis, Counsel.

18 MR. JACKSON: I'm saying, as the  
19 civil counsel for Mr. and Ms. Kelley, that that  
20 is -- I mean, I can't even fathom how that would  
21 be particularly relevant. And if this line of  
22 questioning keeps coming up, Mr. Handler, I think  
23 we need to stop this deposition. We'll just take  
24 it up in front of Mr. -- in front of Judge  
25 Rodriguez. And we can do it in the courthouse.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

25

1 MR. HANDLER: And I think you're  
2 being obstructionist here because this is valid,  
3 you know, questions regarding, you know,  
4 information that United States needs to defend  
5 its lawsuit. And you are being obstructionist  
6 here. And I -- I strongly suggest that you ask  
7 your client to answer these questions.

8 MR. JACKSON: Mr. Handler, how --

9 MR. SCHREIBER: Sidebar.

10 MR. JACKSON: -- the world is that  
11 even relevant to -- to the allegations that the  
12 plaintiffs made against the United States  
13 Government? How?

14 MR. HANDLER: Let me explain it to  
15 you. It has to do with offset. If he paid money  
16 for Lookingbill in the state case, then with  
17 regard to the federal case, Lookingbill would be  
18 getting an offset for that. And that is relevant  
19 and that's not -- you know, that is information  
20 that we can -- that the United States can argue  
21 with the plaintiffs at a later time, but right  
22 now, I'm gathering facts regarding the amount of  
23 money that Mr. Kelley paid with regard to  
24 Lookingbill. And if I have to bring this -- the  
25 witness back, this cost is going to be on you,

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

26

1 Counsel.

2 Q. So do you have the documents pertaining to  
3 the settlement of the Lookingbill case, Mr. Kelley?

4 A. On advice of counsel, I assert my Fifth  
5 Amendment right to remain silent.

6 Q. Okay. Let's move on.

7 Are you assisting any of the plaintiffs in  
8 this litigation?

9 MR. SCHREIBER: Objection; vague.

10 MR. JACKSON: Objection; vague.

11 A. On advice of counsel, I assert my Fifth  
12 Amendment right to remain silent.

13 MR. SCHREIBER: Vague. Objection.

14 This is Mr. Schreiber. I made a  
15 vague objection to -- to the question.

16 MR. JACKSON: And Dean Jackson did  
17 as well.

18 Q. Mr. Kelley, preparation for this  
19 deposition, did you review any documents?

20 A. On advice of counsel, I assert my Fifth  
21 Amendment right to remain silent.

22 Q. In preparation for this deposition, did  
23 you talk to anyone other than your attorneys in  
24 preparation for this deposition?

25 A. On advice of counsel, I assert my Fifth



MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020  
27

1 Amendment right to remain silent.

2 Q. Okay.

3 MR. STERN: Steven, this is Paul  
4 Stern again. Could we perhaps maybe take a  
5 five-minute break? Everyone, I think we just  
6 need to take a quick five minutes.

7 MR. HANDLER: Let me ask you a  
8 quick question.

9 Mr. Jackson, is your client going  
10 to assert the Fifth Amendment right to every  
11 single question that I ask?

12 MR. JACKSON: That should not be  
13 addressed to me.

14 MR. HANDLER: I'm asking you.  
15 Okay. We'll ask Mr. Kelley.

16 Q. Mr. Kelley, are you going to assert your  
17 Fifth Amendment right to every single question that I  
18 ask you?

19 A. On advice of counsel, I assert my Fifth  
20 Amendment right to remain silent.

21 Q. Mr. Kelley, I understand you're asserting  
22 your Fifth Amendment right, but I have a lot of  
23 questions here, and we can be here for the next seven  
24 hours of me asking you questions.

25 Are you going to assert your Fifth

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020  
28

1 Amendment right to every single question that I ask  
2 you?

3 A. On the advice of counsel, I assert my  
4 Fifth Amendment right to remain silent.

5 MR. HANDLER: Court reporter,  
6 let's take a five-minute break.

7 (Break.)

8 Q. Mr. Kelley, are you ready?

9 A. Yes.

10 Q. Okay. Mr. Kelley, I just want to be very  
11 clear here. Are you planning to assert the Fifth  
12 Amendment right against self-incrimination as to  
13 every single question I ask in this deposition?

14 MR. BOURQUE: Objection; asked and  
15 answered.

16 Q. Mr. Kelley, can you answer the question?

17 A. On advice of counsel, I assert my Fifth  
18 Amendment right to remain silent.

19 MR. HANDLER: Mr. Jackson, I'm  
20 posing this question to you. Are you going to  
21 instruct your witness to assert the Fifth to  
22 every single question that I ask in this  
23 deposition?

24 MR. JACKSON: Listen, Mr. Handler,  
25 I know exactly what you're doing. You're not

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

29

1 going to get -- you're not going to bait me into  
2 that. You need to ask your questions. And if  
3 the question is appropriate, then we'll answer  
4 it. If not, then his private counsel is going to  
5 instruct him as he -- as he deems appropriate.  
6 You're not going to bait me into that. I've been  
7 doing this too long.

8 MR. HANDLER: So are you saying  
9 that you're going to allow this witness to answer  
10 questions and not assert the Fifth --

11 MR. BOURQUE: Mr. Jackson is --

12 MR. HANDLER: -- depending on the  
13 question?

14 MR. BOURQUE: Mr. Jackson is not  
15 the witness. Ask your question.

16 MR. HANDLER: Well, based on that,  
17 it seems to me that we're going to go question by  
18 question and Mr. Kelley is going to have to  
19 either answer the question or plead the Fifth.

20 (Simultaneous speaking.)

21 MR. BOURQUE: Ask your question.

22 MR. HANDLER: Okay. All right.  
23 Let's proceed.

24 MR. BOURQUE: Oh, thank you. I  
25 said that 20 minutes ago.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

30

1 MR. HANDLER: You know, you don't  
2 have to be rude.

3 MR. BOURQUE: Oh, sure I do. You  
4 didn't respond to my letter, big boy. Okay? You  
5 treated me like a nonentity, and you're going to  
6 tell me I'm not allowed to be rude? Call  
7 somebody --

8 (Simultaneous speaking.)

9 MR. HANDLER: Yes, I am telling  
10 you: Don't be rude. I'm not rude. Don't be  
11 rude.

12 MR. BOURQUE: I have every right  
13 to treat you the way you treated me. You get  
14 that? And you're very fortunate you're not in  
15 this room with me in person right now. You got  
16 that? And you should have been --

17 (Simultaneous speaking.)

18 MR. HANDLER: Are you threatening  
19 me? Are you threatening me?

20 MR. BOURQUE: Oh, please. Go --

21 (Simultaneous speaking.)

22 MR. HANDLER: Counsel, why don't  
23 you be quiet and sit down and not obstruct this  
24 witness from answering my questions.

25 MR. BOURQUE: Why don't you ask

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

31

1 your questions that we stopped 30 minutes ago.

2 Or come -- I'm inviting you personally to come to  
3 our conference room and you can do it in person.

4 MR. JACKSON: Mr. Handler, if you  
5 want to ask some questions, go ahead.

6 Q. Mr. Kelley, with regard to documents that  
7 you reviewed, did you review anything such as papers  
8 or locations? Did you go to the church before your  
9 deposition today?

10 A. On advice of counsel, I assert my Fifth  
11 Amendment right to remain silent.

12 MR. HANDLER: I'm going to make a  
13 statement for the record. I'm going to stop the  
14 deposition, but I'm going to keep it open. I  
15 believe that Mr. Kelley is inappropriately  
16 asserting the Fifth Amendment privilege against  
17 self-incrimination to appropriate questions for  
18 this civil litigation.

19 We are going to leave it open,  
20 though, and we're going to seek relief through  
21 the Court.

22 And I want to ask counsel for  
23 Mr. Kelley. We have Rebecca's deposition  
24 scheduled for 2 o'clock today. Is Rebecca going  
25 to assert the Fifth in the same manner that her

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

32

1 husband Michael is going to assert the Fifth?

2 MR. BOURQUE: Ms. Kelley is here,  
3 too.

4 MR. JACKSON: Mr. Handler, if you  
5 wanted a fruitful deposition, and an honest  
6 deposition, you could have answered Mr. Bourque's  
7 letter and you could have asked Mr. Kelley the  
8 questions and we would not be going through this  
9 right now.

10 However, because of y'all's  
11 ineptitude and refusal to answer Mr. Bourque's  
12 letter, you've put him in a position and given  
13 him no other alternative but to answer your  
14 questions the way that he is.

15 MR. SCHREIBER: This is Joseph  
16 Schreiber. I'd like to make a statement on  
17 behalf of the plaintiffs, and the statement is  
18 this. The plaintiffs state that the government,  
19 by refusing to admit or deny that they're making  
20 an investigation and charging Mr. and Ms. Kelley,  
21 and/or at this point Danielle Kelley, after the  
22 government's history of prosecuting the family  
23 members of shooters like the Pulse nightclub has  
24 put the Kelleys in the situation where they have  
25 to assert the Fifth Amendment.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

33

1           The plaintiffs on this case would  
2     like to ask the Kelleys questions. We think that  
3     there is information. We understand they cannot  
4     answer questions because the government is  
5     weaponizing their ability to charge the Kelleys  
6     criminally, and therefore the government, by  
7     refusing to either confirm or deny, is  
8     essentially obstructing our questioning as well.

9           And we object to any inference  
10    that may or may not be sought by the government  
11    when they've created the situation by refusing to  
12    either -- to deny officially that there is an  
13    investigation into the Kelleys, or grant an  
14    immunity to testify so they won't be charged.

15           MR. JACKSON: Also, on the record  
16    I want to say -- this is Dean Jackson -- I want  
17    to state that I will also be seeking relief from  
18    the court, as well as attorney's fees for the  
19    abject refusal of the U.S. Government to reply to  
20    Mr. Bourque's letter and creating the situation  
21    that puts the Kelleys in a situation that they  
22    are forced to assert their Fifth Amendment  
23    privilege.

24           MR. HANDLER: Again, Mr. Jackson,  
25    my question still stands. In order to resolve

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

34

1 this right now --

2 (Simultaneous speaking.)

3 MR. BOURQUE: How does that work  
4 for you? The government's ploy is to neither  
5 admit or deny.

6 MR. HANDLER: Mr. Bourque, please  
7 let me finish my statement. I asked the  
8 question, we have Rebecca's deposition at  
9 2 o'clock. Is she going to respond like Michael  
10 and plead the Fifth to every question that we ask  
11 her regarding this matter? Is she going to do  
12 that? So we don't have to notice her -- take her  
13 deposition and ask those --

14 MR. BOURQUE: Asked and answered.

15 MR. HANDLER: I didn't hear your  
16 answer. Can you please repeat it.

17 MR. BOURQUE: You'll have to get  
18 the court reporter.

19 MR. HANDLER: Read back the  
20 answer.

21 (The requested material was read.)

22 THE STENOGRAPHER: "Ms. Kelley is  
23 here."

24 MR. HANDLER: I can't get an  
25 answer.



MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

35

1 MR. BOURQUE: That is the only  
2 answer you're going to get.

3 MR. HANDLER: I consider that we  
4 have met or satisfied our meet and confer with  
5 regard to seeking relief before the Court, and we  
6 will seek relief for the Court and we will ask  
7 the Court to provide us with an opportunity to  
8 re-depose Mr. Kelley and Ms. Kelley at an  
9 appropriate time. Anybody else have any --

10 MR. BOURQUE: Please --

11 MR. HANDLER: Anyone else have a  
12 statement for the record?

13 MR. BOURQUE: Yes, I do. Gerald  
14 Bourque. To the government, either Mr. Handler  
15 or Mr. Stern or whatever other government  
16 employees involved in this case. Please bring  
17 your grant of immunity with you when you seek  
18 your relief for Mr. Kelley and Ms. Kelley. That  
19 concludes my statement.

20 MR. SCHREIBER: I have nothing  
21 further for the plaintiff.

22 MR. HANDLER: Anyone else?

23 MR. JACKSON: While we're on the  
24 record, Mr. Handler, are you saying that you're  
25 releasing Ms. Kelley from her subpoena?

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

36

1 MR. HANDLER: No. All of the  
2 subpoenas, the depositions remain open and  
3 pending. I'm not releasing anyone from anything  
4 until the Court rules.

5 MR. JACKSON: I'm talking about  
6 2 o'clock today.

7 MR. HANDLER: She does not need to  
8 appear for 2 o'clock, but she's still under the  
9 subpoena.

10 MR. BOURQUE: The subpoena is --

11 MR. HANDLER: Anyone else?

12 MR. JACKSON: The subpoena for  
13 2 o'clock. That makes no sense. You have to  
14 reissue the subpoena.

15 MR. STERN: I think the idea of  
16 going forward with Rebecca Kelley is obviously  
17 futile, and so let's just queue this up for the  
18 court. And to the extent we would need to  
19 reissue a subpoena for Rebecca at a later date,  
20 we would do so.

21 MR. BOURQUE: So you're not doing  
22 the deposition at 2 o'clock for Ms. Kelley?

23 MR. STERN: Yes, to the extent  
24 that we anticipate that she would provide similar  
25 non-testimony the way Mr. Kelley is right now.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

37

1 That is correct.

2 MR. BOUCKE: Well, then I'm  
3 assuming that the 2 o'clock depo for Ms. Kelley  
4 is off.

5 MR. HANDLER: Understood.

6 MR. BOUCKE: Very good. Thank  
7 you.

8 MR. SCHREIBER: This is Joseph  
9 Schreiber. The plaintiffs would object to -- let  
10 me back up.

11 Prior to the deposition a number  
12 of exhibits were uploaded to the Zoom chat for  
13 Esquire, including the first one, Kelley 1,  
14 uploaded by Mr. Jackson, who is Michael Kelley's  
15 personal attorney, which was actually discussed  
16 in the deposition.

17 Mr. Handler for the government  
18 uploaded -- I believe was it 13 documents that he  
19 intended to use in the deposition but did not get  
20 a chance to use because the deposition was  
21 suspended. And so the plaintiffs object to the  
22 13 documents that Mr. Handler uploaded being  
23 attached to the deposition because they weren't  
24 used with the witness at all.

25 To the extent that he needs to

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

38

1 show them to the judge is what he was going to  
2 ask, we don't have any objection to those because  
3 we have a record of what they were being attached  
4 to it a different motion. But I don't think they  
5 belong on the transcript itself because they  
6 weren't used to ask a witness a question.

7 Again, I don't -- we have a record  
8 of what they were, Steven, and I don't have any  
9 problem with you attaching them to a motion for  
10 the judge and saying these are the ones I was  
11 going -- what I was going to use. And I have a  
12 record of which ones you have. I downloaded them  
13 all. So I get it.

14 MR. HANDLER: I understand.

15 MR. BOURQUE: This is Gerald  
16 Bourque. Let me add one final thing, if that's  
17 all right.

18 Mr. Kelley was present for the  
19 deposition, was seated, sworn, and as of about  
20 9:15 Houston time, which would be 10:15 Eastern  
21 time, the government stopped asking questions.  
22 So our position is this deposition is concluded.  
23 If you want another deposition, you'll have to  
24 notice us and we'll go from there.

25 MR. HANDLER: The only reason the

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

39

1 witness -- the government stopped the deposition  
2 is because your client, Mr. Kelley, refused to  
3 ask (sic) reasonable questions, but that did not  
4 implicate the Fifth Amendment.

5 And for that reason, the  
6 government was not able to continue the  
7 deposition. It was not the fault of the  
8 government. It was the fault of either the  
9 witness or his attorneys.

10 MR. BOURQUE: Look, let's let  
11 somebody else decide faults here. Okay? You're  
12 a big boy. You know that you don't have the  
13 right to put fault on me any more than I have a  
14 right to put fault on you. Okay?

15 MR. HANDLER: I'd appreciate if  
16 you keep your name-calling to yourself.

17 MR. BOURQUE: It's specifically  
18 directed to me.

19 MR. HANDLER: Okay. If you want  
20 to act like a child, that's fine. This  
21 deposition has been concluded.

22 MR. BOURQUE: Yes, it is. The  
23 deposition is concluded.

24 MR. STERN: It has been suspended.

25 MR. BOURQUE: It's concluded.

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

40

1 MR. HANDLER: You know what I  
2 mean. We'll let the Court decide.

3 MR. JACKSON: Are we done?

4 THE STENOGRAPHER: Mr. Jackson?

5 MR. JACKSON: Yes, ma'am, please.

6 MR. SCHREIBER: I need one for the  
7 plaintiff as well. Send me one for the  
8 plaintiff. Electronic.

9 THE STENOGRAPHER: The transcript  
10 has been ordered next day.

11 MR. SCHREIBER: No.

12 MR. JACKSON: No.

13 (Deposition concluded at 9:23 a.m.)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

41

## CORRECTION PAGE

WITNESS NAME: MICHAEL SHAWN KELLEY DATE:  
06/23/2020

PAGE	LINE	CHANGE	REASON
------	------	--------	--------

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

42

SIGNATURE PAGE

I, MICHAEL SHAWN KELLEY, have read the  
foregoing deposition and hereby affix my signature  
that same is true and correct, except as noted on  
the correction page.

\_\_\_\_\_  
MICHAEL SHAWN KELLEY



MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

43

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

JOE HOLCOMBE, ET AL.,                   §  
  §  
          PLAINTIFF,                   §  CIVIL ACTION NO.  
  §  5:18-CV-00555-XR  
V.                                       §  
  §  
UNITED STATES OF AMERICA,       §  
  §  
          DEFENDANT.                   §

REPORTER'S CERTIFICATION  
DEPOSITION OF MICHAEL SHAWN KELLEY  
TAKEN JUNE 23, 2020

I, TAMARA CHAPMAN, Certified Shorthand Reporter  
in and for the State of Texas, hereby certify to the  
following:

That the witness, MICHAEL SHAWN KELLEY, was  
duly sworn by the officer and that the transcript of  
the oral deposition is a true record of the  
testimony given by the witness;

That the original deposition was delivered to  
STEPHEN HANDLER;

That a copy of this certificate was served on  
all parties and/or the witness shown herein on

\_\_\_\_\_.

I further certify that pursuant to FRCP  
No. 30(f)(i) that the signature of the deponent:  
was requested by the deponent or a party

MICHAEL SHAWN KELLEY  
HOLCOMBE vs UNITED STATES of AMERICA

June 23, 2020

44

1 before the completion of the deposition and that the  
2 signature is to be returned within 30 days from date  
3 of receipt of the transcript. If returned, the  
4 attached Changes and Signature Page contains any  
5 changes and the reasons therefor;

6 X was not requested by the deponent or a  
7 party before the completion of the deposition.

8 I further certify that I am neither counsel  
9 for, related to, nor employed by any of the parties  
10 in the action in which this proceeding was taken,  
11 and further that I am not financially or otherwise  
12 interested in the outcome of the action.

13 Certified to by me this 24th day of June, 2020.

14  
15  
16  


17 Tamara Chapman, CSR, RPR-CRR  
18 Texas CSR #7248 (Expir. 04/30/21)  
19 Firm Registration No. 77  
20 ESQUIRE DEPOSITION SOLUTIONS, LLC  
21 9901 IH 10 West, No. 800  
22 San Antonio, Texas 78230  
23 210.331.2280  
24  
25